

SSB 5317 - S AMD

By Senators Kohl-Welles, Hargrove, Stevens

ADOPTED 03/10/2007

1       Strike everything after the enacting clause and insert the  
2 following:

3       "**Sec. 1.** RCW 43.215.005 and 2006 c 265 s 101 are each amended to  
4 read as follows:

5       (1) The legislature recognizes that:

6       (a) Parents are their children's first and most important teachers  
7 and decision makers;

8       (b) Research across disciplines now demonstrates that what happens  
9 in the earliest years makes a critical difference in children's  
10 readiness to succeed in school and life;

11       (c) Washington's competitiveness in the global economy requires a  
12 world-class education system that starts early and supports life-long  
13 learning;

14       (d) Washington state currently makes substantial investments in  
15 voluntary child care and early learning services and supports, but  
16 because services are fragmented across multiple state agencies, and  
17 early learning providers lack the supports and incentives needed to  
18 improve the quality of services they provide, many parents have  
19 difficulty accessing high quality early learning services;

20       (e) A more cohesive and integrated voluntary early learning system  
21 would result in greater efficiencies for the state, increased  
22 partnership between the state and the private sector, improved access  
23 to high quality early learning services, and better employment and  
24 early learning outcomes for families and all children.

25       (2) The legislature finds that the early years of a child's life  
26 are critical to the child's healthy brain development and that the  
27 quality of caregiving during the early years can significantly impact  
28 the child's intellectual, social, and emotional development.

29       (3) The purpose of this chapter is:

30       (a) To establish the department of early learning;

1 (b) To coordinate and consolidate state activities relating to  
2 child care and early learning programs;

3 (c) To safeguard and promote the health, safety, and well-being of  
4 children receiving child care and early learning assistance;

5 (d) To provide tools to promote the hiring of suitable providers of  
6 child care by:

7 (i) Providing parents with access to information regarding child  
8 care providers;

9 (ii) Providing child care providers with known information  
10 regarding applicants' sexual misconduct or other abusive conduct;

11 (iii) Providing parents with child care licensing complaint  
12 histories regarding child care providers; and

13 (iv) Requiring background checks of applicants for employment in  
14 any child care facility licensed or regulated under current law;

15 (e) To promote linkages and alignment between early learning  
16 programs and elementary schools and support the transition of children  
17 and families from prekindergarten environments to kindergarten;

18 ((+e)) (f) To promote the development of a sufficient number and  
19 variety of adequate child care and early learning facilities, both  
20 public and private; and

21 ((+f)) (g) To license agencies and to assure the users of such  
22 agencies, their parents, the community at large and the agencies  
23 themselves that adequate minimum standards are maintained by all child  
24 care and early learning facilities.

25 (4) This chapter does not expand the state's authority to license  
26 or regulate activities or programs beyond those licensed or regulated  
27 under existing law.

28 **Sec. 2.** RCW 43.215.010 and 2006 c 265 s 102 are each amended to  
29 read as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) "Agency" means any person, firm, partnership, association,  
33 corporation, or facility that provides child care and early learning  
34 services outside a child's own home and includes the following  
35 irrespective of whether there is compensation to the agency:

36 (a) "Child day care center" means an agency that regularly provides

1 child day care and early learning services for a group of children for  
2 periods of less than twenty-four hours;

3 (b) "Early learning" includes but is not limited to programs and  
4 services for child care; state, federal, private, and nonprofit  
5 preschool; child care subsidies; child care resource and referral;  
6 parental education and support; and training and professional  
7 development for early learning professionals;

8 (c) "Family day care provider" means a child day care provider who  
9 regularly provides child day care and early learning services for not  
10 more than twelve children in the provider's home in the family living  
11 quarters;

12 (d) "Service provider" means the entity that operates a community  
13 facility.

14 (2) "Agency" does not include the following:

15 (a) Persons related to the child in the following ways:

16 (i) Any blood relative, including those of half-blood, and  
17 including first cousins, nephews or nieces, and persons of preceding  
18 generations as denoted by prefixes of grand, great, or great-great;

19 (ii) Stepfather, stepmother, stepbrother, and stepsister;

20 (iii) A person who legally adopts a child or the child's parent as  
21 well as the natural and other legally adopted children of such persons,  
22 and other relatives of the adoptive parents in accordance with state  
23 law; or

24 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
25 subsection (2)(a), even after the marriage is terminated;

26 (b) Persons who are legal guardians of the child;

27 (c) Persons who care for a neighbor's or friend's child or  
28 children, with or without compensation, where the person providing care  
29 for periods of less than twenty-four hours does not conduct such  
30 activity on an ongoing, regularly scheduled basis for the purpose of  
31 engaging in business, which includes, but is not limited to,  
32 advertising such care;

33 (d) Parents on a mutually cooperative basis exchange care of one  
34 another's children;

35 (e) Nursery schools or kindergartens that are engaged primarily in  
36 educational work with preschool children and in which no child is  
37 enrolled on a regular basis for more than four hours per day;

1 (f) Schools, including boarding schools, that are engaged primarily  
2 in education, operate on a definite school year schedule, follow a  
3 stated academic curriculum, accept only school-age children, and do not  
4 accept custody of children;

5 (g) Seasonal camps of three months' or less duration engaged  
6 primarily in recreational or educational activities;

7 (h) Facilities providing care to children for periods of less than  
8 twenty-four hours whose parents remain on the premises to participate  
9 in activities other than employment;

10 (i) Any agency having been in operation in this state ten years  
11 before June 8, 1967, and not seeking or accepting moneys or assistance  
12 from any state or federal agency, and is supported in part by an  
13 endowment or trust fund;

14 (j) An agency operated by any unit of local, state, or federal  
15 government or an agency, located within the boundaries of a federally  
16 recognized Indian reservation, licensed by the Indian tribe;

17 (k) An agency located on a federal military reservation, except  
18 where the military authorities request that such agency be subject to  
19 the licensing requirements of this chapter;

20 (l) An agency that offers early learning and support services, such  
21 as parent education, and does not provide child care services on a  
22 regular basis.

23 (3) "Applicant" means a person who requests or seeks employment in  
24 an agency.

25 (4) "Department" means the department of early learning.

26 ~~((+4))~~ (5) "Director" means the director of the department.

27 ~~((+5))~~ (6) "Employer" means a person or business that engages the  
28 services of one or more people, especially for wages or salary to work  
29 in an agency.

30 (7) "Enforcement action" means denial, suspension, revocation,  
31 modification, or nonrenewal of a license pursuant to RCW 43.215.300(1)  
32 or assessment of civil monetary penalties pursuant to RCW  
33 43.215.300(3).

34 ~~((+6))~~ (8) "Probationary license" means a license issued as a  
35 disciplinary measure to an agency that has previously been issued a  
36 full license but is out of compliance with licensing standards.

37 ~~((+7))~~ (9) "Requirement" means any rule, regulation, or standard  
38 of care to be maintained by an agency.

1           **Sec. 3.** RCW 43.215.200 and 2006 c 265 s 301 are each amended to  
2 read as follows:

3           It shall be the director's duty with regard to licensing:

4           (1) In consultation and with the advice and assistance of persons  
5 representative of the various type agencies to be licensed, to  
6 designate categories of child care facilities for which separate or  
7 different requirements shall be developed as may be appropriate whether  
8 because of variations in the ages and other characteristics of the  
9 children served, variations in the purposes and services offered or  
10 size or structure of the agencies to be licensed, or because of any  
11 other factor relevant thereto;

12           (2) In consultation and with the advice and assistance of persons  
13 representative of the various type agencies to be licensed, to adopt  
14 and publish minimum requirements for licensing applicable to each of  
15 the various categories of agencies to be licensed under this chapter((-

16           ~~The minimum requirements shall be limited to:~~

17           ~~(a) The size and suitability of a facility and the plan of~~  
18 ~~operation for carrying out the purpose for which an applicant seeks a~~  
19 ~~license;~~

20           ~~(b) The character, suitability, and competence of an agency and~~  
21 ~~other persons associated with an agency directly responsible for the~~  
22 ~~care of children. In consultation with law enforcement personnel, the~~  
23 ~~director shall investigate the conviction record or pending charges and~~  
24 ~~dependency record information under chapter 43.43 RCW of each agency~~  
25 ~~and its staff seeking licensure or relicensure. No unfounded~~  
26 ~~allegation of child abuse or neglect as defined in RCW 26.44.020 may be~~  
27 ~~disclosed to a provider licensed under this chapter. In order to~~  
28 ~~determine the suitability of applicants for an agency license,~~  
29 ~~licensees, their employees, and other persons who have unsupervised~~  
30 ~~access to children in care, and who have not resided in the state of~~  
31 ~~Washington during the three year period before being authorized to care~~  
32 ~~for children shall be fingerprinted. The fingerprints shall be~~  
33 ~~forwarded to the Washington state patrol and federal bureau of~~  
34 ~~investigation for a criminal history records check. The fingerprint~~  
35 ~~criminal history records checks will be at the expense of the licensee.~~  
36 ~~The licensee may not pass this cost on to the employee or prospective~~  
37 ~~employee, unless the employee is determined to be unsuitable due to his~~  
38 ~~or her criminal history record. The director shall use the information~~

1 solely for the purpose of determining eligibility for a license and for  
2 determining the character, suitability, and competence of those persons  
3 or agencies, excluding parents, not required to be licensed who are  
4 authorized to care for children. Criminal justice agencies shall  
5 provide the director such information as they may have and that the  
6 director may require for such purpose;

7 (c) The number of qualified persons required to render the type of  
8 care for which an agency seeks a license;

9 (d) The health, safety, cleanliness, and general adequacy of the  
10 premises to provide for the comfort, care, and well being of children;

11 (e) The provision of necessary care and early learning, including  
12 food, supervision, and discipline; physical, mental, and social well-  
13 being; and educational and recreational opportunities for those served;

14 (f) The financial ability of an agency to comply with minimum  
15 requirements established under this chapter; and

16 (g) The maintenance of records pertaining to the care of  
17 children));

18 (3) In consultation with law enforcement personnel, the director  
19 shall investigate the conviction record or pending charges of each  
20 agency and its staff seeking licensure or relicensure;

21 (4) To issue, revoke, or deny licenses to agencies pursuant to this  
22 chapter. Licenses shall specify the category of care that an agency is  
23 authorized to render and the ages and number of children to be served;

24 ((+4)) (5) To prescribe the procedures and the form and contents  
25 of reports necessary for the administration of this chapter and to  
26 require regular reports from each licensee;

27 ((+5)) (6) To inspect agencies periodically to determine whether  
28 or not there is compliance with this chapter and the requirements  
29 adopted under this chapter;

30 ((+6)) (7) To review requirements adopted under this chapter at  
31 least every two years and to adopt appropriate changes after  
32 consultation with affected groups for child day care requirements; and

33 ((+7)) (8) To consult with public and private agencies in order to  
34 help them improve their methods and facilities for the care and early  
35 learning of children.

36 NEW SECTION. **Sec. 4.** MINIMUM REQUIREMENTS FOR LICENSING.

1 Applications for licensure shall require, at a minimum, the following  
2 information:

3 (1) The size and suitability of a facility and the plan of  
4 operation for carrying out the purpose for which an applicant seeks a  
5 license;

6 (2) The character, suitability, and competence of an agency and  
7 other persons associated with an agency directly responsible for the  
8 care of children;

9 (3) The number of qualified persons required to render the type of  
10 care for which an agency seeks a license;

11 (4) The health, safety, cleanliness, and general adequacy of the  
12 premises to provide for the comfort, care, and well-being of children;

13 (5) The provision of necessary care and early learning, including  
14 food, supervision, and discipline; physical, mental, and social  
15 well-being; and educational and recreational opportunities for those  
16 served;

17 (6) The financial ability of an agency to comply with minimum  
18 requirements established under this chapter; and

19 (7) The maintenance of records pertaining to the care of children.

20 NEW SECTION. **Sec. 5.** CHARACTER, SUITABILITY, AND COMPETENCE. (1)  
21 In determining whether an individual is of appropriate character,  
22 suitability, and competence to provide child care and early learning  
23 services to children, the department may consider all founded child  
24 abuse and neglect history information regarding a prospective child  
25 care provider. No unfounded or inconclusive allegation of child abuse  
26 or neglect as defined in RCW 26.44.020 may be disclosed to a provider  
27 licensed under this chapter.

28 (2) In order to determine the suitability of applicants for an  
29 agency license, licensees, their employees, and other persons who have  
30 unsupervised access to children in care, and who have not resided in  
31 the state of Washington during the three-year period before being  
32 authorized to care for children, shall be fingerprinted.

33 (a) The fingerprints shall be forwarded to the Washington state  
34 patrol and federal bureau of investigation for a criminal history  
35 record check.

36 (b) The fingerprint criminal history record checks shall be at the

1 expense of the licensee. The licensee may not pass this cost on to the  
2 employee or prospective employee, unless the employee is determined to  
3 be unsuitable due to his or her criminal history record.

4 (c) The director shall use the information solely for the purpose  
5 of determining eligibility for a license and for determining the  
6 character, suitability, and competence of those persons or agencies,  
7 excluding parents, not required to be licensed who are authorized to  
8 care for children.

9 (d) Criminal justice agencies shall provide the director such  
10 information as they may have and that the director may require for such  
11 purpose.

12 **Sec. 6.** RCW 43.215.525 and 2006 c 209 s 11 are each amended to  
13 read as follows:

14 (1) Every child day-care center and family day-care provider shall  
15 prominently post the following items, clearly visible to parents and  
16 staff:

17 (a) The license issued under this chapter;

18 (b) The department's toll-free telephone number established by RCW  
19 (~~(74.15.310)~~) 43.215.520;

20 (c) The notice of any pending enforcement action. The notice must  
21 be posted immediately upon receipt. The notice must be posted for at  
22 least two weeks or until the violation causing the enforcement action  
23 is corrected, whichever is longer;

24 (d) A notice that inspection reports and any notices of enforcement  
25 actions for the previous three years are available from the licensee  
26 and the department; and

27 (e) Any other information required by the department.

28 (2) The department shall disclose(~~(, upon request,)~~) the receipt,  
29 general nature, and resolution or current status of all complaints on  
30 record with the department after July 24, 2005, against a child day-  
31 care center or family day-care provider that result in an enforcement  
32 action. Information may be posted:

33 (a) On a web site; or

34 (b) In a physical location that is easily accessed by parents and  
35 potential employers.

36 (3) This section shall not be construed to require the disclosure

1 of any information that is exempt from public disclosure under chapter  
2 42.56 RCW.

3 **Sec. 7.** RCW 43.215.530 and 2006 c 209 s 12 are each amended to  
4 read as follows:

5 (1) Every child day-care center and family day-care provider shall  
6 have readily available for review by the department, parents, and the  
7 public a copy of each inspection report and notice of enforcement  
8 action received by the center or provider from the department for the  
9 past three years. This subsection only applies to reports and notices  
10 received on or after July 24, 2005.

11 (2) The department shall make available to the public during  
12 business hours all inspection reports and notices of enforcement  
13 actions involving child day-care centers and family day-care providers  
14 (~~consistent with chapter 42.56 RCW~~). The department shall include in  
15 the inspection report a statement of the corrective measures taken by  
16 the center or provider.

17 (3) The department may make available on a publicly accessible web  
18 site all inspection reports and notices of enforcement actions  
19 involving child day-care centers and family day-care providers. The  
20 department shall include in the inspection report a statement of the  
21 corrective measures taken by the center or provider.

22 (4) This section shall not be construed to require the disclosure  
23 of any information that is exempt from public disclosure under chapter  
24 42.56 RCW.

25 NEW SECTION. **Sec. 8.** PARENTAL NOTIFICATION. The department and  
26 an agency must, at the first opportunity but in all cases within  
27 forty-eight hours of receiving a report alleging sexual misconduct or  
28 abuse by an agency employee, notify the parents of a child alleged to  
29 be the victim, target, or recipient of the misconduct or abuse. The  
30 department and an agency shall provide parents with information  
31 regarding their rights under the public records act, chapter 42.56 RCW,  
32 to request the public records regarding the employee. This information  
33 shall be provided to all parents on an annual basis.

34 NEW SECTION. **Sec. 9.** REPORTING ACTIONS--POSTING ON WEB SITE. For  
35 the purposes of reporting actions taken against agency licensees, the

1 following actions shall be posted to the department's web site  
2 accessible by the public: Suspension, surrender, revocation, denial,  
3 stayed suspension, or reinstatement of a license, and any written  
4 reprimand related to abuse and sexual misconduct or abuse.

5 **Sec. 10.** RCW 43.215.535 and 2005 c 473 s 7 are each amended to  
6 read as follows:

7 (1) Every licensed child day-care center shall, at the time of  
8 licensure or renewal and at any inspection, provide to the department  
9 proof that the licensee has day-care insurance as defined in RCW  
10 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

11 (a) Every licensed child day-care center shall comply with the  
12 following requirements:

- 13 (i) Notify the department when coverage has been terminated;
- 14 (ii) Post at the day-care center, in a manner likely to be observed  
15 by patrons, notice that coverage has lapsed or been terminated;
- 16 (iii) Provide written notice to parents that coverage has lapsed or  
17 terminated within thirty days of lapse or termination.

18 (b) Liability limits under this subsection shall be the same as set  
19 forth in RCW 48.88.050.

20 (c) The department may take action as provided in RCW 74.15.130 if  
21 the licensee fails to maintain in full force and effect the insurance  
22 required by this subsection.

23 (d) This subsection applies to child day-care centers holding  
24 licenses, initial licenses, and probationary licenses under this  
25 chapter.

26 (e) A child day-care center holding a license under this chapter on  
27 July 24, 2005, is not required to be in compliance with this subsection  
28 until the time of renewal of the license or until January 1, 2006,  
29 whichever is sooner.

30 (2)(a) Every licensed family day-care provider shall, at the time  
31 of licensure or renewal either:

32 (i) Provide to the department proof that the licensee has day-care  
33 insurance as defined in RCW 48.88.020, or other applicable insurance;  
34 or

35 (ii) Provide written notice of their insurance status on a standard  
36 form developed by the department to parents with a child enrolled in  
37 family day care and keep a copy of the notice to each parent on file.

1 Family day-care providers may choose to opt out of the requirement to  
2 have day care or other applicable insurance but must provide written  
3 notice of their insurance status to parents with a child enrolled and  
4 shall not be subject to the requirements of (b)((~~7~~)) or (c)((~~7~~ or (~~d~~))  
5 of this subsection.

6 (b) Any licensed family day-care provider that provides to the  
7 department proof that the licensee has insurance as provided under  
8 (a)(i) of this subsection shall comply with the following requirements:

9 (i) Notify the department when coverage has been terminated;

10 (ii) Post at the day-care home, in a manner likely to be observed  
11 by patrons, notice that coverage has lapsed or been terminated;

12 (iii) Provide written notice to parents that coverage has lapsed or  
13 terminated within thirty days of lapse or termination.

14 (c) Liability limits under (a)(i) of this subsection shall be the  
15 same as set forth in RCW 48.88.050.

16 (d) The department may take action as provided in RCW 74.15.130 if  
17 the licensee fails to (~~notify the department when coverage has been~~  
18 ~~terminated as required under (b))~~ comply with the requirements of this  
19 subsection.

20 (e) A family day-care provider holding a license under this chapter  
21 on July 24, 2005, is not required to be in compliance with this  
22 subsection until the time of renewal of the license or until January 1,  
23 2006, whichever is sooner.

24 (3) Noncompliance or compliance with the provisions of this section  
25 shall not constitute evidence of liability or nonliability in any  
26 injury litigation.

27 NEW SECTION. **Sec. 11.** Captions used in this act are not any part  
28 of the law.

29 NEW SECTION. **Sec. 12.** Sections 4, 5, 8, and 9 of this act are  
30 each added to chapter 43.215 RCW."

**SSB 5317** - S AMD

By Senators Kohl-Welles, Hargrove, Stevens

**ADOPTED 03/10/2007**

1        On page 1, line 1 of the title, after "safety;" strike the  
2 remainder of the title and insert "amending RCW 43.215.005, 43.215.010,  
3 43.215.200, 43.215.525, 43.215.530, and 43.215.535; adding new sections  
4 to chapter 43.215 RCW; creating a new section; and prescribing  
5 penalties."

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